

Case 1:25-cv-03797-ELR

Document 11

Filed 10/06/25

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3 IN THE UNITED STATES DISTRICT COURT

4

FOR THE NORTHERN DISTRICT OF GEORGIA

5

6

ATLANTA DIVISION

7

8

PAGE INJURY LAW, LLC,

9

Plaintiff,

10

vs.

11

YAN GOLDSHTEYN,

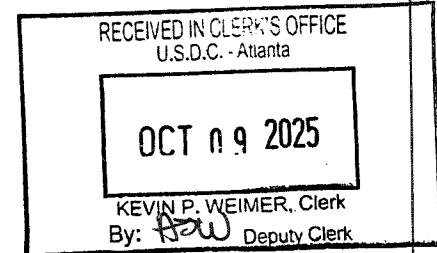
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Defendant

13

Civ. No. 1:25-cv-03797-ELR

14

DEFENDANT'S MOTION TO SET
ASIDE CLERK'S ENTRY OF
DEFAULT

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**DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF
DEFAULT**

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Pursuant to **Federal Rule of Civil Procedure 55(c)**, Defendant Yan Goldshteyn respectfully moves this Court to set aside the Clerk's Entry of Default entered on September 10, 2025. The default was not the result of willful neglect or dilatory conduct, but rather a procedural irregularity stemming from substitute service while Defendant was out of town -- a confluence of procedural circumstances that merit relief under the liberal standard governing Rule 55(c). Defendant acted promptly upon receiving actual notice, has meritorious defenses

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DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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2 grounded in federal trademark law, and seeks resolution of this matter on the
3
4 merits – not by procedural technicality.

5
6 **I. INTRODUCTION**

7
8 This action concerns Plaintiff's request for declaratory judgment concerning
9 the enforceability and alleged infringement of Defendant's federally registered
10 trademark, **SPARTAN LAW** (U.S. Reg. No. 5449914). On August 13, 2025,
11 Plaintiff served Defendant via substitute service at his residence while he was out
12 of town (Dkt. 5). The Clerk entered default on September 10, 2025, following
13 Plaintiff's motion filed just one business day earlier (Dkt. 6). Due to the substitute
14 service, Defendant did not receive actual notice of the Complaint until later.

15
16 Upon learning of the default, Defendant immediately took steps to
17 participate in the litigation, including filing a Motion to Stay on September 16,
18 2025 (Dkt. 8) and preparing motion to set aside default. The record reflects
19 Defendant's diligence, good faith, and intent to litigate this matter on its merits.

20
21 **II. LEGAL STANDING**

22
23 Federal Rule of Civil Procedure 55(c) provides that “[t]he court may set
24 aside an entry of default for good cause.” The Eleventh circuit applies a flexible
25 and equitable standard that favors adjudication on the merits. See *Perez v. Wells*

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28 DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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2 *Fargo N.A.*, 774 F.3d 1329, 1337 (11th Cir. 2014); *Compania Interamericana*
3
4 *Exp.-Imp., S.A. v. Compania Dominicana de Aviacion*, 88 F.3d 948, 951 (11th Cir.
5 1996). Courts routinely grant relief from default where the defendant
6 demonstrates:
7

- 8 . Prompt action to correct the default;
- 9 . A meritorious defense;
- 10 . Lack of prejudice to the plaintiff; and
- 11 . That the default was not the result of willful or culpable conduct.

12 These factors are not rigidly applied, and courts retain broad discretion to
13 weight the equities. See *Turner Broadcasting Sys., Inc. v. Sanyo Elec.*, 33 F. Supp.
14
15 2d 1311, 1316 (N.D. Ga. 1998).

16 III. ARGUMENT

17 19 A. Defendant Did Not Receive Actual Notice Until Much 20 Later

21
22 Although Plaintiff filed proof of service indicating substitute service was
23 executed in the morning of August 13, 2025 (Dkt.5), Defendant was out of town
24 at the time and did not receive actual notice of the Complaint until much later.
25
26 Courts routinely recognize that substitute service resulting in delayed actual notice
27 may constitute good cause under Rule 55(c). See *United Sttes v. One 2000*
28

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2 *Mercedes Benz*, No. 1:03-cv-3533-WSD, 2004 WL 540441, at *2 (N.D. Ga. Mar.
3
4 15, 2004) (setting aside default where defendant did not receive actual notice due
5 to substitute service).

6 Defendant's delay was not evasive, negligent, or tactical. It was the result of
7
8 circumstances beyond his control, and he acted promptly upon learning of the
9 default.

10
11 **B. Defendant Acted Promptly and In Good Faith**

12 Defendant filed a Motion to Stay on September 15, 2025 (Dkt. 8), less than
13 one week after the default was entered and within days of receiving actual notice.
14
15 He has since actively participated in the litigation and now seeks to set aside the
16 default to file a responsive pleading. Courts routinely find good cause where the
17 delay is brief, and the defendant acts diligently. See *EOC v. Mike Smith Pontiac*
18
19 *GMC, Inc.*, 896 F.2d 524, 529 (11th Cir. 1990); *Robinson v. United States*, 734 F.
20
21 Supp. 2d 21, 25 (D.D.C. 2010) ("Prejudice must involve more than the mere
22 passage of time.").

23
24 **C. Defendant Has Meritorious Defenses Grounded in
Federal Trademark Law**

25 Defendant owns a federally registered trademark for **SPARTAN LAW**,
26 which has achieved incontestable status under 15 U.S.C. §1065. Plaintiff's
27
28 DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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2 competing mark, **844-SPARTAN**, is currently in the USPTO application process,
3
4 which has issued a Letter of Protest citing potential confusion under Section 2(d)
5
6 of the Lanham Act.

7 Both the USPTO and federal courts apply the **DuPont factors** to assess
8 likelihood of confusion. See *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357
9 (C.C.P.A. 1973) ; *Tana v. Dantanna's*, 611 F.3d 767,775 (11th Cir. 2010). The
10 USPTO's Trademark Manual of Examining Procedure (TMEP §1207.01) instructs
11 examining attorneys to apply these factors when evaluating registrability under
12 Section 2(d). Defendant's defenses – including trademark infringement, likelihood
13 of confusion, and improper declaratory relief – are not only meritorious, but
14 central to the dispute.

15 Moreover, because Plaintiff filed Form AO 120 on July 9, 2025 (Dkt. 3),
16 Plaintiff may now request **expedited examination** of its application under TMEP
17 § 702.02 due to the pendency of this litigation. The USPTO's decision will
18 materially inform the resolution of this case and supports Defendant's request for
19 a stay.

20
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24 **D. Plaintiff Will Not Be Prejudiced**

25 Plaintiff will suffer no prejudice from setting aside the default. No judgment
26 has been entered, no discovery has commenced, and no scheduling order is in
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2 place. Defendant has not sought injunctive relief, and Plaintiff remains free to
3 operate under its current branding. Any delay has been minimal and procedural,
4 not tactical.

5 Courts routinely reject claims of prejudice where the litigation is in its
6 infancy and the defaulting party seeks to litigate in good faith. See *Turner*
7 *Broadcasting*, 33 F. Supp. 2d at 1316 (no prejudice where plaintiff could still
8 litigate claims on the merits); *Robinson*, 734 F. Supp. 2d at 25.

9

10 **IV. CONCLUSION**

11 This Court has broad discretion to set aside procedural defaults and ensure
12 that disputes are resolved on the merits. Defendant respectfully requests that the
13 Court set aside the Clerk's Entry of Default dated September 10, 2025, and permit
14 Defendant to file a responsive pleading. Defendant further requests such other and
15 further relief as the Court deems just and proper.

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21
22 Respectfully submitted this 6th day of October, 2025.

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Yan Goldstein
Principal Attorney
Spartan Law Corporation

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427 N Canon Dr. Suite 212
Beverly Hills, CA. 90210
Telephone: 323-450-7000
yan@spartanlawcorp.com
Defendant

DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

Case 1:25-cv-03797-ELR

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Certificate of Compliance

The undersigned counsel certifies that the foregoing has been prepared in Times New Roman (14 point) font, as required by the Court in Local Rule 5.1(B).

Respectfully submitted on October 6, 2025.



Yan Goldshteyn
Principal Attorney
Spartan Law Corporation
427 N Canon Dr. Suite 212
Beverly Hills, CA. 90210
Telephone: 323-450-7000
yan@spartanlawcorp.com
Defendant

Case 1:25-cv-03797-ELR

Document 11

Filed 10/06/25

1
2 **CERTIFICATE OF SERVICE**
3
45 **I HEREBY CERTIFY** that on this 6th day of October 2025, a copy of
6 the foregoing Defendant's Motion To Set Aside Clerk's Entry of Default was filed
7
8 via mail and served via first class mail to:9 BEKIARES ELIEZER, LLP
10 Attention: Kennington R. Groff
11 Melanie K. Lane
12 Zachary C. Eyster
13 2870 Peachtree Rd. #512
Atlanta GA 3030514
15 Respectfully Submitted,
1617
18 Yan Goldshteyn
19 Principal Attorney
20 Spartan Law Corporation
21 427 N Canon Dr. Suite 212
22 Beverly Hills, CA. 90210
23 Telephone: 323-450-7000
yan@spartanlawcorp.com
Defendant24
25
26
27
28 DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

PAGE INJURY LAW, LLC,

Plaintiff,

vs.

YAN GOLDSHTEYN,

Defendant

Civ. No. 1:25-cv-03797-ELR

DECLARATION OF YAN
GOLDSHTEYN

**DECLARATION OF YAN GOLDSHTEYN IN SUPPORT OF
DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF
DEFAULT**

I, Yan Goldshteyn, declare as follows:

1. I am the Defendant in the above-captioned matter and the principal attorney at Spartan Law Corp. I make this declaration in support of my Motion to Set Aside Clerk's Entry of Default. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

DECLARATION IN SUPPORT OF MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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1

2. On or about August 13, 2025, I was served via substitute service at my
3 personal residence while I was out of town. The summons and complaint
4 were left with my spouse. I did not receive actual notice of the lawsuit
5 until after I came home much later.

6

3. I immediately took steps to respond to the initiated litigation. I filed a
9 Motion to Stay on September 15, 2025, and began preparing this motion
10 to set aside default.

12

4. I have not acted in bad faith or with intent to delay these proceedings. My
13 delay in responding was due solely to lack of actual notice, and I have
14 acted promptly and diligently since becoming aware of the lawsuit.

15

5. I hold a federally registered trademark for SPARTAN LAW (U.S. Reg.
17 No. 5449914), which has achieved incontestable status under 15 U.S.C. §
19 1065. Plaintiff's competing mark, 844-SPARTAN, is currently under
20 review by the USPTO, which has issued a Letter of Protest citing
21 potential confusion under Section 2(d) of the Lanham Act.

23

6. I intent to file a responsive pleading and possibly assert meritorious
24 defenses, including trademark infringement, likelihood of confusion, and
25 improper declaratory relief.

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1
2 7. I respectfully request that the Court set aside the Clerk's Entry of Default
3
4 and permit me to respond to the Complaint on the merits.
5
6

7 I declare under penalty of perjury under the laws of the United States
8 of America that the foregoing is true and correct.
9
10

11 Executed on October 6, 2025.
12
13



14 Yan Goldshteyn
15 Principal Attorney
16 Spartan Law Corporation
17 427 N Canon Dr. Suite 212
18 Beverly Hills, CA. 90210
19 Telephone: 323-450-7000
20 yan@spartanlawcorp.com
21 *Defendant*
22
23
24
25
26
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Certificate of Compliance

The undersigned counsel certifies that the foregoing has been prepared in Times New Roman (14 point) font, as required by the Court in Local Rule 5.1(B).

Respectfully submitted on October 6, 2025.



Yan Goldshteyn
Principal Attorney
Spartan Law Corporation
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Telephone: 323-450-7000
yan@spartanlawcorp.com
Defendant

Case 1:25-cv-03797-ELR

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

PAGE INJURY LAW, LLC,

Plaintiff,

vs.

YAN GOLDSHTEYN,

Defendant

Civ. No. 1:25-cv-03797-ELR

[PROPOSED] ORDER

**[PROPOSED] ORDER GRANTING DEFENDANT'S MOTION TO
SET ASIDE CLERK'S ENTRY OF DEFAULT**

Before the Court is Defendant Yan Goldshteyn's Motion to Set Aside Clerk's Entry of Default pursuant to Federal Rule of Civil Procedure 55(c). Having considered the motion, the supporting declaration, the record, and applicable law, the Court finds that good cause exists to set aside the default.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant's Motion to Set Aside Clerk's Entry of Default is

GRANTED;

PROPOSED ORDER GRANTING DEFENDANT'S MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

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1
2 2. The Clerk's Entry of Default entered on September 10, 2025 is
3 hereby SET ASIDE;
4

5
6 SO ORDERED this _____ day of _____, 2025.
7

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11 _____
12 Honorable Eleanor L. Ross
13 United States District Judge
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Case 1:25-cv-03797-ELR

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Page 3 of 4
Filed 10/06/25**Certificate of Compliance**

The undersigned counsel certifies that the foregoing has been prepared in Times New Roman (14 point) font, as required by the Court in Local Rule 5.1(B).

Respectfully submitted on October 6, 2025.



Yan Goldshteyn
Principal Attorney
Spartan Law Corporation
427 N Canon Dr. Suite 212
Beverly Hills, CA. 90210
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yan@spartanlawcorp.com
Defendant

Case 1:25-cv-03797-ELR

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of October 2025, a copy of the foregoing Proposed Order Granting Defendant's Motion to Set Aside Clerk's Entry of Default was filed via mail and served via first class mail to:

BEKIARES ELIEZER, LLP
Attention: Kennington R. Groff
Melanie K. Lane
Zachary C. Eyster
2870 Peachtree Rd. #512
Atlanta GA 30305

Respectfully Submitted,

Yan Goldshteyn
Principal Attorney
Spartan Law Corporation
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Beverly Hills, CA. 90210
Telephone: 323-450-7000
yan@spartanlawcorp.com
Defendant

Case 1:25-cv-03797-ELR

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of October 2025, a copy of the foregoing Declaration of Yan Goldshteyn in Support of Motion to Set Aside Clerk's Entry of Default was filed via mail and served via first class mail to:

BEKIARES ELIEZER, LLP
Attention: Kennington R. Groff
Melanie K. Lane
Zachary C. Eyster
2870 Peachtree Rd. #512
Atlanta GA 30305

Respectfully Submitted,

Yan Goldshteyn
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Defendant

DECLARATION IN SUPPORT OF MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT



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